

OFFICE OF THE CHIEF OF POLICE

SPECIAL ORDER NO. 5

April 18, 2017

APPROVED BY THE BOARD OF POLICE COMMISSIONERS ON APRIL 18, 2017

SUBJECT: POLICY ON THE USE OF FORCE – REVISED

PURPOSE: The purpose of this Order is to revise the use of force policy preamble to include the need to control an incident by using time, distance, communications, and available resources, in an effort to de-escalate the situation, whenever it is safe and reasonable to do so. Additionally, changing circumstances and the amount of time an officer has to determine the type and amount of force that appears reasonable have been added as factors that will be used to determine the reasonableness of a use of force.

PROCEDURE:

- I. PREAMBLE TO USE OF FORCE.** The use of force by members of law enforcement is a matter of critical concern both to the public and the law enforcement community. It is recognized that some individuals will not comply with the law or submit to control unless compelled to do so by the use of force; therefore, law enforcement officers are sometimes called upon to use force in the performance of their duties. It is also recognized that members of law enforcement derive their authority from the public and therefore must be ever mindful that they are not only the guardians, but also the servants of the public.

The Department's guiding value when using force shall be reverence for human life. *Officers shall attempt to control an incident by using time, distance, communications, and available resources in an effort to de-escalate the situation, whenever it is safe and reasonable to do so.* When warranted, Department personnel may objectively use reasonable force to carry out their duties. Officers who use unreasonable force degrade the confidence of the community we serve, expose the Department and fellow officers to legal and physical hazards, and violate the rights of individuals upon whom unreasonable force is used. Conversely, officers who fail to use force when warranted may endanger themselves, the community and fellow officers.

II. DEFINITIONS.

Objectively Reasonable. The legal standard used to determine the lawfulness of a use of force is the Fourth Amendment to the United States Constitution. See *Graham v. Connor*, 490 U.S. 386 (1989). Graham states in part, "The reasonableness of a particular use of force must be judged from the perspective of a reasonable officer on the scene, rather than with the 20/20 vision of hindsight.

The calculus of reasonableness must embody allowance for the fact that police officers are often forced to make split-second judgments - in circumstances that are tense, uncertain and rapidly evolving - about the amount of force that is necessary in a particular situation. The test of reasonableness is not capable of precise definition or mechanical application."

The force must be reasonable under the circumstances known to the officer at the time the force was used. Therefore, the Department examines all uses of force from an objective standard rather than a subjective standard.

Deadly Force. Deadly Force is defined as that force which creates a substantial risk of causing death or serious bodily injury.

Imminent. Black's Law Dictionary defines imminent as, "Near at hand; impending; on the point of happening."

Serious Bodily Injury. California Penal Code Section 243(f)(4) defines Serious Bodily Injury as including but not limited to:

- Loss of consciousness;
- Concussion;
- Bone fracture;
- Protracted loss or impairment of function of any bodily member or organ;
- A wound requiring extensive suturing; and,
- Serious disfigurement.

Warning Shots. The intentional discharge of a firearm off target not intended to hit a person, to warn others that deadly force is imminent.

III. POLICY.

Use of Force — General. It is the policy of this Department that personnel may use only that force which is "objectively reasonable" to:

- Defend themselves;
- Defend others;
- Effect an arrest or detention;
- Prevent escape; or,
- Overcome resistance.

Factors Used To Determine Reasonableness. The Department examines reasonableness using *Graham v. Connor* and from the articulated facts from the perspective of a Los Angeles Police Officer with similar training and experience placed in generally the same set of circumstances. In determining the appropriate level of force, officers shall evaluate each situation in light of facts and circumstances of each particular case. Those factors may include, but are not limited to:

- Seriousness of the crime or suspected offense;
- The level of threat or resistance presented by the subject;
- Whether the subject was posing an immediate threat to officers or a danger to the community;
- The potential for injury to citizens, officers or subjects;
- The risk or apparent attempt by the subject to escape;
- The conduct of the subject being confronted (as reasonably perceived by the officer at the time);
- *The amount of time and any changing circumstances during which the officer had to determine the type and amount of force that appeared to be reasonable;*
- The availability of other resources;
- The training and experience of the officer;
- The proximity or access of weapons to the subject;
- Officer versus subject factors such as age, size, relative strength, skill level, injury/exhaustion and number officers versus subjects; and,
- The environmental factors and/or other exigent circumstances.

Deadly Force. Law enforcement officers are authorized to use deadly force to:

- Protect themselves or others from what is reasonably believed to be an imminent threat of death or serious bodily injury; or,
- Prevent a crime where the suspect's actions place person(s) in imminent jeopardy of death or serious bodily injury; or,
- Prevent the escape of a violent fleeing felon when there is probable cause to believe the escape will pose a significant threat of death or serious bodily injury to the officer or others if apprehension is delayed. In this circumstance, officers shall, to the extent practical, avoid using deadly force that might subject innocent bystanders or hostages to possible death or injury.

The reasonableness of an officer's use of deadly force includes consideration of the officer's tactical conduct and decisions leading up to the use of deadly force.

Warning Shots. Warning shots shall only be used in exceptional circumstances where it might reasonably be expected to avoid the need to use deadly force. Generally, warning shots shall be directed in a manner that minimizes the risk of injury to innocent persons, ricochet dangers, and property damage.

Shooting At or From Moving Vehicles. Firearms shall not be discharged at a moving vehicle unless a person in the vehicle is immediately threatening the officer or another person with deadly force by means other than the vehicle. The moving vehicle itself shall not presumptively constitute a threat that justifies an officer's use of deadly force.

An officer threatened by an oncoming vehicle shall move out of its path instead of discharging a firearm at it or any of its occupants. Firearms shall not be discharged from a moving vehicle, except in exigent circumstances and in the immediate defense of life.

Note: It is understood that the policy in regards to discharging a firearm at or from a moving vehicle may not cover every situation that may arise. In all situations, Department members are expected to act with intelligence and exercise sound judgment, attending to the spirit of this policy. Any deviations from the provisions of this policy shall be examined rigorously on a case by case basis. The involved officer must be able to articulate clearly the reasons for the use of deadly force. Factors that may be considered include whether the officer's life or the lives of others were in immediate peril and there was no reasonable or apparent means of escape.

AMENDMENT: This Order amends section 1/556.10 of the Department Manual.

AUDIT RESPONSIBILITY: The Commanding Officer, Audit Division, shall review this directive and determine whether an audit or inspection shall be conducted in accordance with Department Manual Section 0/080.30.

A handwritten signature in blue ink, appearing to read 'C. Beck', is positioned above the printed name of the Chief of Police.

CHARLIE BECK
Chief of Police

DISTRIBUTION "D"